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Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on his mission to Argentina

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Vitit Muntarbhorn, on his mission to Argentina from 1 to 10 March 2017.

During his mission, the Independent Expert was able to observe how a range of liberal laws and policies on this subject were being implemented. They included the gender identity law (2012), a federal law guaranteeing to everyone the right to have self-perceived gender identity recognized and to be treated by others in line with that gender identity. The request to change a person's identity is simple and is facilitated without the need for judicial authorization. There is also a comprehensive sex education law which opens the door to understanding sexual diversity from a young age.

Current challenges in this regard include the presence of institutional violence and related discrimination, and divergence between federal law and provincial laws. Some of the measures required for the future include the need for effective integration of sexual orientation and gender identity-responsive national laws, policies and related measures at the provincial and local levels; and reform of laws and policies which are inconsistent with human rights standards and which might lead to violence and discrimination, such as various provisions of provincial codes of offences (so-called contravention codes). There is also a call for the adoption of a new anti-discrimination law to include sexual orientation and gender identity as one of the grounds of discrimination and for greater integration of the policy on sexual diversity into all State institutions, and for clear instructions to be issued to police and other law enforcement personnel, for example through protocols, to respect human rights and extend protection in relation to sexual orientation and gender identity.

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Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on his mission to Argentina*

Contents

		Page
I.	Introduction	3
II.	Situation	3
III.	Law/policy	4
IV.	Implementation	6
V.	Constructive lessons	8
	A. Improvements in the judicial and law enforcement fields	8
	B. Special units	8
	C. "Mocha Celis" bachillerato trans high school and "Hotel Gondolín"	9
	D. Small-scale activities	9
	E. University inputs	10
	F. Sexual diversity consulting rooms	10
	G. Initiatives in the provinces	10
VI.	Challenges	11
	A. Institutional violence and related discrimination	11
	B. Prejudices and stereotypes	12
	C. Divergence between federal and provincial law	12
	D. Anomalies between particular laws	13
	E. Intersectional impediments	14
	F. Lacunae in anti-discrimination law	15
	G. Limited checks and balances	15
	H. Penitentiary system	16
VII.	Recommendations	17
Annex		
	List of official meetings	21

* Circulated in the language of submission and Spanish only.

I. Introduction

> "Sexual orientation and gender identity should be guaranteed [as part of] participation because they strengthen the function of democracy." Congressional policymaker, Buenos Aires.
>
> "Laws are great, but we need to have the legal scaffolding of rights." Non-governmental personnel, Buenos Aires.
>
> "Violence is like a knot." Government official, Buenos Aires.
>
> "There is the paradox of the victim being called the violator." Local resident, conurbano Bonaerense, Buenos Aires.[1]

1. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Vitit Muntarbhorn, visited Argentina from 1 to 10 March 2017 under the mandate established by the Human Rights Council in its resolution 32/2. This was his first country visit since assuming his functions.

2. The Independent Expert thanks the Government of Argentina for the invitation to conduct the visit and for its excellent cooperation before and during his stay. He would also like to thank federal and provincial authorities, non-governmental organizations (NGOs), civil society members and other stakeholders for their friendly and constructive contributions. He had full and open access to those he sought to meet and to places and locations needed to study the situation under the mandate. He visited Buenos Aires and the suburban areas, La Plata, Rosario and Mendoza. He also had access to various penitentiary institutions to observe the conditions of the inmates with respect to sexual orientation and gender identity.

II. Situation

3. Argentina is one of the largest countries and economies in South America. With a population of nearly 44 million, about 51 per cent of whom are women, it ranks high in the 2016 Human Development Index: 45 out of 188 countries.[2] It is a federal State with 23 provinces and the Autonomous City of Buenos Aires, comprised of more than 2,000 municipalities. In 2016, the country celebrated 200 years of independence and it has enjoyed sustained democracy since 1983.

4. According to the strategic framework for cooperation between the United Nations Development System and Argentina 2016–2020, Argentina is classified as a high-middle-income country with a gross domestic product per capita of $12,568.50. Notwithstanding the average, there are marked productive, social and regional differences that cause problems similar to those of countries with relatively less development. As a result, the strategic cooperation of the United Nations system, according to the country's development priorities, focuses on territorial inequalities and asymmetries with respect to groups in situations of greater vulnerability. In recent years, laws have been passed that set a clear agenda for the promotion and protection of human rights as a State policy. The Government has designed policies to guarantee these rights. In this context, special attention has been given to women's rights, including sexual and reproductive rights, the right to a life free of violence and the rights of housewives; and the rights of the lesbian, gay, bisexual, transgender and intersex community, including gender identity and equal marriage. However, there are still

[1] All quotations were obtained in March 2017.

[2] For general background, see Aengus Carroll and Lucas Ramón Mendos, *State-Sponsored Homophobia*, 12th ed. (Geneva, International Lesbian, Gay, Bisexual, Transgender and Intersex Association, May 2017), available from http://ilga.org/what-we-do/state-sponsored-homophobia-report/. See also Office of the Ombudsman of the City of Buenos Aires, submission to the Independent Expert (four volumes) (Buenos Aires, 2017).

development challenges linked to full access to rights throughout the national territory by some groups in a situation of vulnerability.[3]

5. In Argentina, as elsewhere, the issue of sexual orientation and gender identity is closely linked to the situation of lesbian, gay, bisexual and transgender persons. There may also be links to intersex persons, for example, in regard to the choice of surgery and medical care in relation to gender identity. At the national level, the setting concerning sexual orientation and gender identity has been liberal for a long time; for example, homosexuality was not criminalized in the first criminal code enacted at the federal level in 1887. However, regulations issued by provincial, municipal and local authorities which explicitly targeted *travestis*, cross-dressing and "homosexualism" and/or regulated morality, vice and mores were not repealed until very recently (a few of them are still on the books) and were used to persecute lesbian, gay, bisexual and transgender people until the late 2000s.

6. A number of progressive laws and policies at the federal level help to protect people from violence and discrimination based on sexual and gender identity; they have been commended internationally, and are discussed in detail below. As in other countries, at ground level is the key issue of comprehensive implementation and enforcement. Violence and discrimination are major concerns in many localities. Killings, assaults, harassment and other human rights violations take a major toll among transgender women in particular. The seriousness of the problem suggests the need for more mapping of the issue. The transgender group is especially vulnerable, given a background of socioeconomic deprivation and poverty which might lead them into clandestine street life and occupations such as sex work, and negative encounters with law enforcement personnel, at times face-to-face with their broad campaign against drug trafficking. The short lifespan of transgender women, interrupted by violence and/or discrimination, attests to their precarious existence. Prejudicial attitudes compound the situation for a range of groups and persons, fuelling attacks on gay, lesbian, bisexual and/or transgender persons in various parts of the country.

7. During the Independent Expert's visit, violence against lesbians, often invisible, was also raised as an issue. This was compounded by the insecurity felt by some groups with regard to their right to have and retain children.

III. Law/policy

8. Argentina has shown great commitment to human rights by becoming a party to the core international human rights treaties, as well as key regional human rights conventions and other instruments. It has engaged with human rights mechanisms established under the Charter of the United Nations, including the universal periodic review and the special procedures of the Human Rights Council, and those established under these conventions. This was exemplified by and encapsulated in its most recent report to the Committee on Economic Social and Cultural Rights (E/C.12/ARG/4) and its engagement with the Special Rapporteur on violence against women, its causes and consequences (A/HRC/35/30/Add.1) and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/35/41/Add.1) in the context of their visits to Argentina in 2016.

9. The most prominent national law is the gender identity law (2012), a federal law guaranteeing to everyone the right to have their self-perceived gender identity recognized and to be treated by others in line with that gender identity.[4] People are entitled to have their gender identity recognized without needing gender-affirming surgery, hormonal therapies or psychological or medical treatment, among others, and the request for a change of gender identity is simple and does not require judicial authorization. Access to comprehensive health

[3] Government of Argentina, *Marco Estratégico de Cooperación del Sistema de Naciones Unidas para el Desarrollo 2016–2020*.

[4] See http://servicios.infoleg.gob.ar/infolegInternet/anexos/195000-199999/197860/norma.htm. See also Fundación Huésped and Asociación de Travestis, Transexuales y Transgéneros Argentinas, *Ley de Identidad de Género y Acceso al Cuidado de la Salud de Las Personas Trans en Argentina*, (Buenos Aires, 2014), available from www.huesped.org.ar/wp-content/uploads/2014/05/OSI-informe-FINAL.pdf.

care is also part of the process. Importantly, the rationale for the law is based on self-identification, linked with debureaucratization through simplification of procedures and depathologization of gender recognition.

10. Article 1 of this law recognizes the right of every person (a) to the recognition of their gender identity; (b) to their free development according to their gender identity; (c) to be treated in accordance with their gender identity and, in particular, to be identified in that way in the documents that prove their identity with respect to the name, image and sex registered there.

11. Article 2 defines gender identity as the internal and individual experience of gender as each person feels it, which may or may not correspond to the sex assigned at birth, including the personal experience of the body. This may involve modifying body appearance or function through pharmacological, surgical or other means, provided that it is freely chosen. It also includes other expressions of gender, such as dress, ways of speaking and gestures.

12. According to articles 3–5, requests for a change of recorded sex, name and image are permitted for persons from the age of 18, who can request such a change through the national registry of persons or its sectional offices. For persons under 18, the request for such a change must be made through their legal representatives and with the minor's consent. No administrative or judicial procedure is needed to effect these changes. Article 11 adds the right to free personal development, stipulating that all persons over the age of 18 may, in accordance with article 1 and in order to guarantee their enjoyment of integral health, have access to total and partial surgical interventions and/or hormonal treatments to adapt their body, including their genitals, to their self-perceived gender identity, without the need for judicial or administrative authorization. For surgical intervention on minors, the agreement of the competent judicial authorities must be obtained in addition to the informed consent of the individual concerned.

13. As noted by a trans woman in conurbano Bonaerense, Buenos Aires, the gender identity law is not just about adjustment of the body and access to hormone treatment, but also access to health care.

14. This seminal law is further advanced by other innovative laws and related reforms, including the law recognizing same-sex marriage (2010). Persons of the same sex may also adopt children.

15. Other notable legislative initiatives include the law on comprehensive sex education (2006), which initiates understanding of sexual diversity from a young age; the reform of the national criminal code (2012) to include femicide, which can include the killing of transgender (*travesti*, transsexual and transgender in local terminology) women as a separate category of aggravated homicide and which added sexual orientation and gender identity or expression as aggravating circumstances, with increased sanctions against perpetrators; and the repeal of the restrictions that barred people from donating blood based on their sexual orientation (2015).

16. Since 2008, surviving spouses in same-sex couples can receive a widow's/widower's pension. Gay and lesbian persons have been able to serve in the military since 2009. The first marriage between same-sex personnel in the military took place in 2011. The law on mental health (No. 26.657, 2010) depathologizes the issue of sexual orientation and gender identity and stipulates that no mental health diagnosis can be premised solely on the lack of conformity or adjustment to moral, social, cultural or political values, or to religious beliefs prevailing in the community in which a person is living, or sexual choice or identity.[5]

17. The country has a national policy against discrimination and the issue enjoys transversal commitment through the integration of this policy into a cross-section of government ministries. A document titled "Towards a National Plan against Discrimination" was approved by presidential decree No. 1986/05. The National Institute against

[5] See http://servicios.infoleg.gob.ar/infolegInternet/anexos/175000-179999/175977/norma.htm.

Discrimination, Xenophobia and Racism, attached to the Ministry of Justice and Human Rights, coordinates action on this policy.[6]

18. The policy has been guided by the work of civil society, particularly the "Plan for LGBT Citizens: From Legal Equality to a Real Equality",[7] which calls for a public policy of inclusion, with a legislative agenda and an emphasis on various themes such as the workplace, the health-care system, education, culture and sports, communication and development, social development and participation, and security and prevention of institutional violence. It emphasizes various entry points including equity, human rights, joint responsibility, integrity and autonomy, coordination, diversity and participation.

19. The national policy against discrimination, with a bearing on sexual and gender diversity, acts as the basis for a human rights action plan and is highlighted by line ministries with a focal point for coordination and dissemination based at the Ministry of Justice and Human Rights, which coordinates policies at the federal level. The agenda includes the development of policies to remove obstacles to the enjoyment of rights by persons in relation to sexual orientation and gender identity; community action; articulation and coordination with the governmental sector nationally and locally and for improved access by lesbian, gay, bisexual, transgender and intersex persons to civil, economic, social and cultural rights; dissemination of related information; and deepening of cultural change with an understanding that the rights of lesbian, gay, bisexual, transgender and intersex persons are human rights. Various State agencies have special units and/or personnel to deal with sexual diversity, and this is much welcomed.

20. There is also now the national response to the Sustainable Development Goals, complemented by the country's partnership with the United Nations system under the United Nations Development Assistance Framework and common country assessment. Its commitment to citizenship and the promotion of human rights is interconnected with sexual orientation and gender identity, and the target is for the country to have, by 2020:

- Implemented public policies to prevent, address and reduce inequalities and all forms of discrimination and/or violence based on gender, age, sexual orientation, ethnicity, nationality and disability
- Strengthened full citizenship through the unrestricted protection and promotion of human rights, the design and implementation of mechanisms for access to information, citizen participation and access to justice throughout the territory without discrimination of any kind
- Implemented strategies for the protection and promotion of the diversity of cultural expressions, intercultural dialogue and equality in access to cultural property, with special emphasis on the most vulnerable groups, eliminating all forms of discrimination[8]

21. These developments are reinforced by initiatives at the provincial level, such as a new law to establish a minimum quota in the Province of Buenos Aires to employ transgender persons (not only to help generate employment for the group but also to act affirmatively to overcome gender stereotypes), and the repeal of various restrictive laws based on public morality, such as in Santa Fe Province. The progression of innovative laws and policies is proof of the democratic process, which opens the door to acceptance of sexual and gender diversity and broad public participation

IV. Implementation

22. The Independent Expert learned first-hand about many implementation measures at both the national and local levels. Under the national policy described above, for example, a

[6] The Institute was created by law No. 24.515 in 1995. Its main aim is to formulate national policies and practical measures against discrimination, xenophobia and racism. The Institute submitted further information to the Independent Expert in March 2017.

[7] See https://issuu.com/federacion.lgbt/docs/plan_for_lgbt_citizens__final_web_.

[8] Government of Argentina, *Marco Estratégico*, p. 18.

directorate for sexual diversity policies within the Ministry of Justice and Human Rights supports face-to-face and virtual training on sexual diversity and human rights, aimed also at the security forces; coordination with other ministries; intersectional round tables with local civil society and the private sector; conferences; inclusion of trans people through employment exchange programmes; data on trans femicide; and national collection of memories of sexual diversity, including a national library on the issue.

23. The activities of the Ministry of Social Development are centred around four axes: (a) promoting, protecting and informing the public about their rights; (b) productive development; (c) supporting institutions involved in areas of sexual activity; and (d) contributing to the visibility and discussion of lesbian, gay, bisexual, transgender, intersex and queer issues on a regional and national level.[9] They include awareness campaigns, coordination meetings between ministries and direct assistance interventions for trans people.

24. A key ministry for the implementation of the comprehensive sex education law is the Ministry of Education and Sports. Its work is premised on a comprehensive sex education programme nurturing a sense of understanding of sexual orientation and gender identity issues. It offers gradual integration of the agenda into different levels of the curriculum in the educational system, guided by the following precepts: promote learning based on respect for diversity and rejection of discrimination; care for the body and health; expand the cultural horizon for children; stimulate appreciation of human rights; and develop skills for verbalization of emotions and dispute settlement.[10]

25. The Independent Expert met with several teachers who are part of the implementation process. They provided great insight into the methodology, psychology and substance for integrating sexual orientation and gender identity into the curriculum, underlining the need to engage parents, teachers and children in the process. The following comments by one of the teachers are particularly instructive:

> "Instead of saying 'the girl has a boyfriend', we should ask, 'is she with a partner?'"
>
> "Girls and boys — as men and women — will have sex, so let's build them so that at school, they have the tools they need. Let's speak about prevention .... We have to speak about this ... to prevent HIV. The only thing to use is a condom."
>
> "Some mothers will say, 'I have never seen a condom'."
>
> "A princess can save a prince."
>
> "Two kings might get married."

26. Thus, the education on sexual orientation and gender identity can be indirect (e.g., on health or gender issues, including violence against women) or direct (on sexual orientation and gender identity specifically). However, many teachers whom the Independent Expert met expressed concern at the reduction of resources for the implementation of the comprehensive sex education law.

27. There are parallel activities at the Ministry of Labour, particularly a business network on sexual diversity, and at the Ministry of Health, with its programme for sexual health and responsible parenthood in relation to sexual diversity. The Ministry of Justice and Human Rights has awareness programmes on diversity and non-discrimination for members of the police forces and is developing a protocol concerning detention of lesbian, gay, bisexual and transgender persons. The National Council of Women also integrates the gender identity law into its work, and has a particular focus on action against violence and discrimination. In 2017 it established a working group on gender-based violence and sexual orientation and gender identity.

28. In the Autonomous City of Buenos Aires, the Public Defence Service has staged photography contests with a campaign based on the theme "*no es igual, no da igual*", implying that equality in law does not always mean equality in practice. The Service ran

[9] Submission from the Ministry of Social Development, Annual Report, 2016.

[10] Submission to the Independent Expert from the Ministry of Education and Sports, Comprehensive National Sex Education Programme, March 2017. See also Office of the President and Ministry of Education and Sports, *Educación Sexual Integral en la Argentina: Voces Desde la Escuela* (2015).

training activities as part of its health plan for trans persons (2015–2016) under its gender and sexual diversity programme. The Province of Buenos Aires also has a law establishing a quota for the employment of trans persons, but it still needs implementing regulations at the local level. Provincial law No. 14783, known as the trans work quota act, stipulates that a proportion of not less than 1 per cent of all staff must be *travestis*, transsexuals or transgender persons who meet the conditions of suitability for the post, and that posts must be established and reserved exclusively for them.[11] A staff member of the Public Prosecution Service in Buenos Aires told the Independent Expert that "the quota is an imposed cultural change".

29. The annual day of struggle against discrimination in relation to sexual orientation and gender identity is 17 May. There is also a protocol for interlinking and cross-referencing cases between different agencies.

30. The many NGOs in the country undertake a vast range of activities in support of sexual orientation and gender identity issues. They range from advocacy to provision of basic services, legal aid, training, education and employment opportunities. Many of their activities are recognized below, for example the "Mocha Celis" trans high school and small-scale activities to help the trans community.

31. Despite the constructive policies and many innovative programmes, there are recurrent difficulties facing implementation, due partly to budgetary constraints, inability to provide trans people with adequate employment opportunities and health care, and bureaucratic hurdles. For example, some parts of the gender identity law are not fully implemented. In particular, article 11, which relates to the right to integrated health care and access to surgical interventions and hormonal therapies, was not implemented until 2015, three years after the law entered into force, and services are available in only a few provinces. Likewise, the implementation of the sexual health law (No. 25.673/2003) has been slow in the provinces.

V. Constructive lessons

32. The variety of exemplary laws/policies has already been discussed. A number of constructive lessons can also be singled out. The following are illustrative.

A. Improvements in the judicial and law enforcement fields

33. Most welcome is the increasing change from the inquisitorial system used among the judiciary to an accusatorial system. The former relies heavily upon the role of judges in the judicial process, while the latter provides for more checks and balances, including the role of public prosecutors in a more open process. In addition, in one province visited by the Independent Expert, oversight over the police, which was previously exercised by the police themselves, has been turned over to other actors such as the Ministry of Justice and Human Rights, providing more objectivity and transparency. Educational programmes at various levels of the educational system have also been initiated for law enforcement and other personnel. However, these stepping stones need to become more systematic, applying throughout the country.

B. Special units

34. Another interesting development is the setting up of special units to deal with the violence and discrimination affecting lesbian, gay, bisexual, transgender and intersex persons, as per the submission of the Public Prosecution Service of the Autonomous City of Buenos Aires on institutional policies regarding sexual orientation and gender identity. However, the competence of the Prosecutor's Office is federal and leaves untouched much

[11] In a submission to the Independent Expert, the Ombudsman of the Province of Buenos Aires noted that his Office was in the process of complying with the job quota for trans and *travesti* people and demanding compliance from all the agencies.

of what happens at the local level, although it can intervene in common crimes in the City of Buenos Aires.

35. Another constructive development is the Council of the Magistracy of the City of Buenos Aires, which helps to train and undertake research on the issue of sexual orientation and gender identity. It brings together the judiciary, government personnel and civil society for various courses such as "Complexities in the legal treatment of intersex people" (2014); "The gender identity law: precedents and impact on justice" (2014); "Equal marriage and diverse families: legislative changes and challenges and the rights of children, families and lesbian, gay, bisexual, transgender and intersex persons" (2015). It has published an illustrated version of the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity in Spanish. It has highlighted the following concerns as obstacles to justice: lack of acknowledgement of a situation of vulnerability; structural sexism; injustice; lack of training among justice personnel; prejudices and negative stereotypes when assisting *travestis* and trans people; criminalization and police violence; lack of legal competency; and structural problems of the judicial system, including the cost and time of justice, bureaucracy, impunity and State collusion.

C. "Mocha Celis" bachillerato trans high school and "Hotel Gondolin"

36. The school, the first of its kind worldwide, was initiated by the non-governmental sector and subsequently received recognition as a high school, with teachers and school staff receiving funds from the Autonomous City of Buenos Aires. It is a response to the sad finding that many transgender people drop out of school and have to resort to prostitution to survive.[12] It offers education to help end violence and discrimination, with a focus on sexual and gender diversity. It benefits, in particular, transgender persons and provides a rounded experience which enables the students to leave their past marginalized settings behind and progress towards other professions.[13]

37. Classes are offered together with outlets for job opportunities. The teachers have a great rapport with the students. The school helps to fill in the educational gaps faced by trans persons. The participatory approach enables the students to feel a sense of ownership and human security in the face of the less friendly world which they had witnessed before. As noted by one of the students from Buenos Aires: "Many of us come here from the red light district … where we were left in oblivion."

38. The Independent Expert also heard about "Hotel Gondolin", a place historically open to trans people from all over the country and also for those from other countries. It helps address the housing gaps faced by trans women, particularly as many leave their original homes in the provinces or neighbouring countries at a young age and as part of a migration to the capital city and have no place to live when they arrive in Buenos Aires. The hotel now works as a cooperative where the expenses and household chores are shared among the inhabitants. This institution offers great insight into how to deal with intersectional issues (e.g., sexual orientation and gender identity and migration) and also interlinks with sociocultural and economic inclusion by providing a safety cushion for those who are already marginalized.

D. Small-scale activities

39. Small-scale activities are globally recognized as activities closest to the people and help to improve the livelihoods of local people most directly, with incentives for grass-roots development. There are key experiences in Argentina. For example, the Independent Expert

[12] For information on the trans population and their relationship with schools and dropout rates, see Fundación Huesped, *Ley de Identidad de Género*, p. 27; and Lohana Berkins and Josefina Fernández, *La Gesta del Nombre Propria: Informe sobre la Situación de la Comunidad Travesti en Argentina* (Buenos Aires, Ediciones Madres de Plaza de Mayo, 2005).

[13] See www.bachilleratomochacelis.edu.ar/.

visited a small-scale project — a hairdressing salon in La Plata — supported by the non-governmental organization OTRANS as a micro activity to help trans women, including migrant workers, find a livelihood. Laudably, one of the NGO leaders allows the group of trans women to use a part of her home as a beauty salon, thus enabling the women to enjoy a sense of security and income. The Independent Expert witnessed other small-scale activities when he visited the provinces, including a cultural centre and museum highlighting lesbian, gay, bisexual and transgender issues as well as links with local communities, such as a farmers' market that uses the grounds of the centre for market day.

E. University inputs

40. The Independent Expert visited the University of La Plata and learned about many useful developments. For example, the Faculty of Journalism and Social Communication was the first to have a sexual diversity unit and adopted an open policy, particularly to admit trans people into its classes. In 2008, the university adopted a resolution to recognize the self-identity of students. On the day of the Independent Expert's visit, several persons participated in a forum where they shared their life experiences. One of the lecturers, the director of the sexual diversity unit, was a trans woman. An innovative approach is the issue of access to toilets. The toilets are for "common" use, being open to all, irrespective of gender. A lecturer told the Independent Expert that the administration had avoided the term "joint toilet", as it was too closely linked with the binary approach to gender. The open policy is found in universities throughout the country.

F. Sexual diversity consulting rooms

41. The Independent Expert visited the health administrators in the St. Martin's area near Buenos Aires and learned of the special health facilities open to trans people. These offer medical help, with access to counselling and other support such as cross-referrals. Importantly, there are specially trained health personnel who have an understanding of sexual and gender diversity. Interestingly, during the discussions the issue was raised of how to enable more health-care providers to improve their understanding of sexual orientation and gender identity so as to prevent discrimination and ensure improved access to health care for all.

G. Initiatives in the provinces

42. In Rosario, Santa Fe and Mendoza, the Independent Expert witnessed many positive lessons first-hand. One development was the change from the self-administration of the police to monitoring by an external body. Another was the shift from the inquisitorial to the accusatorial system in the judicial setting. Local administrations had also undertaken educational and awareness campaigns on sexual and gender diversity, including many publications and training programmes, such as those on respect for and protection of the lesbian population. Efforts were made to employ more trans people in the workforce. Special units/desks and personnel deal with sexual orientation and gender identity. There were links with many non-governmental activities, such as the cultural centre on sexual orientation and gender identity mentioned above. One region also has opened a museum dedicated to victims of repression in a former era as a memory bank for the injustices faced by lesbian, gay, bisexual and transgender persons in the past. The Independent Expert met with several community leaders from the sexual orientation and gender identity community and discussed success stories (as well as challenges) with the community, such as that of a transgender nurse who provided a positive role model.

VI. Challenges

A. Institutional violence and related discrimination

43. Various forms of violence and discrimination are pervasive in the country. In particular, institutional violence remains ingrained, historically deep rooted in society, and it lies at the heart of the problem. Institutional violence, through negative acts and omissions on the part of State officials, is a root cause of violence and discrimination in relation to sexual orientation and gender identity, as well as an aggravating factor and a consequence and it perpetuates the vicious circle of abuses.[14] A particular concern is the assassination of transgender women, with civil society organizations reporting about 50 deaths between 2008 and 2016. In 2012, the National Statistics and Census Institute reported in the first survey on the trans population that 83 per cent of those surveyed had been victims of serious violence or police discrimination.

44. Some law enforcement officials are ostensibly involved in the violations, and a major dilemma is impunity. This is compounded by difficulties facing victims and survivors in trying to access the justice system, given that there are inherent prejudices against the various groups who demand protection in relation to their sexual orientation and gender identity.

45. The nature of the violence and discrimination is further complicated by the fact that it is multidimensional and multilayered: violence and discrimination may start in the family setting, escalate into the educational system and community environment, and then spread to the provincial and national settings, exacerbated by the Internet and cyberspace, which may be a crucible for hostile elements inciting hatred and violence. Patriarchy and lack of empathy for sexual and gender diversity are aggravating factors. Behind all this is sociocultural exclusion, interlinked with cultural, economic and political marginalization, all of which feed the dynamics of violence and discrimination.

46. Many sources (both governmental and non-governmental) underlined to the Independent Expert that despite the existence of laws and policies, implementation is lax on some fronts and past progress needs to be sustained, transcending changes in the political setting. The following statements illustrate the realities as seen through the eyes of victims and witnesses:

> "Trans [women] are the ones at greatest risk. Two years ago we talked about how to integrate them into the labour market; now we talk about how they are murdered." Local resident of conurbano Bonaerense.
>
> "Structural violence is so huge that not even Diana Sacayan [a trans women activist who was murdered] was able to break it. Most trans cannot study; they cannot relate to other people because they are excluded." Local resident of conurbano Bonaerense.
>
> "Trans women have a life expectancy of 35 years." Member of the trans community, Buenos Aires.

47. On this front, recent caveats issued by United Nations mechanisms, such as the Committee on the Elimination of Discrimination against Women[15] and the Special

[14] See submission to the Independent Expert by the Ombudsman of the Province of Buenos Aires. See also Observatorio de Violencia de Género de la Defensoría del Pueblo de la Provincia de Buenos Aires (Monitoring Centre on Gender Violence of the Office of the Ombudsman of the Province of Buenos Aires), *Monitoreo de Políticas Públicas y Violencia de Género 2014-15* (Buenos Aires, 2016). See further the report of a group of NGOs submitted to the Committee on the Elimination of Discrimination against Women in October 2016 documenting a large number of violent deaths of trans people, including Laura Elena Moyano, Marcela Chocobar, Brigitez Nieto, Belén Inostroza, Jose Zalazar Maturano, Erika Rojas, Soledad Iturre, Zoe Quispe, Fernanda Coty Olmoas and Amancay Diana Sacayan, available from http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARG/INT_CEDAW_NGO_ARG_25486_S.pdf.

[15] See CEDAW/C/ARG/CO/7.

Rapporteur on violence against women, provide a great deal of wisdom; consistent monitoring and mapping of the situation remain problematic.

B. Prejudices and stereotypes

48. Prejudices and stereotypes are prevalent in various settings and affect transgender persons in particular. They are accentuated by interactions with law enforcement personnel. Stakeholders whom the Independent Expert met observed that negative prejudices and stereotypes about trans and *travesti* people often associate them with the idea of criminality. This has direct consequences on their possibilities of accessing justice; their gender identity functions tacitly as an aggravating circumstance when they are denounced and as reasons for disrepute when they are denouncing someone else. The fact of being *travesti* or trans undermines their credibility and affects the impartiality of justice officers. While *travesti* or trans people find it extremely difficult to prove themselves to be victims of crime, their identity predisposes judicial personnel to dismiss or doubt their words, to treat them as suspicious and/or act arbitrarily in the judicial processes carried out by members of this population.

49. In the City of Buenos Aires, the relationship between trans and *travesti* people and the police forces is highly troubled. In research carried out by Gender Watch, most of the informants pointed to a history and a presence of abuse on the part of the police, who make use of various legal resources to target and punish the group as a whole. Article 81 of the misdemeanour code of the City of Buenos Aires, which refers to the "supply and demand of sex", in fact allowed, and still allows, for daily targeting, discrimination, harassment, aggression and police corruption, to the detriment of people in prostitution, including trans and *travesti* people. This has allowed arbitrariness on the part of the police, as it is impossible to determine objectively — and even more so to prove in court — whether an offer or request for sexual services was "ostensible" in a given case. The difficulties in denouncing violence to the police, along with impunity and State complicity, draw trans and *travesti* people even further away from the exercise of their rights.

50. The following comments invite reflection and response:

> "When you kill a *travesti*, it is nothing …. There is hatred …. they plunge a knife deep into the breast because it has silicone." Trans person, Buenos Aires.
>
> "There is no other population with such a significant mortality rate." Government official referring to the situation of trans women in the country, Buenos Aires.
>
> "The first discrimination against him was when he became a father. He has a uterus, but he is a father." Wife of trans man in conurbano Bonaerense.

C. Divergence between federal law and provincial law

51. There is a major concern that federal law, particularly the gender identity law, is not yet implemented, or not well implemented, at the provincial level

52. As noted in a submission from the Council of the Magistracy of the City of Buenos Aires:

> "There still are norms at the provincial level and in the City of Buenos Aires, norms, practices and procedures, that do not comply with international standards or with those established by the referred legal framework. In many cases, we do not find implementation of inclusive public policies, or adequate treatment on the part of the judiciary or State staff, or on the part of the police. On the contrary, particularly in relation to trans and *travesti* people, we can still find violent, stigmatizing and discriminatory acts on the part of State agents."
>
> Evidently, few trans people are members of the judiciary or the police.

53. In addition, the comprehensive sex education law is challenged by resource constraints and the issue of effective implementation, particularly weak implementation in

some educational institutions. This is complicated by the atmosphere surrounding the educational spectrum. As found in a study by 100% Diversidad y Derechos, an NGO, on the national school climate for lesbian, gay, bisexual and transgender students,[16] nearly 70 per cent of the students reported feeling unsafe at school because of their sexual orientation; 54 per cent felt unsafe because of how they expressed their gender; 76 per cent heard homophobic comments such as *maricon*, or *torta* or *puta* often; 74 per cent heard "gay" used negatively often (for example, "this is so gay"); and 30.6 per cent reported that school staff did not intervene when they heard this type of comment, although almost three quarters of the lesbian, gay, bisexual and transgender students said that they were bothered by them to a high degree. These results call for attention to be paid to this serious problem.

54. Another result is the large impact that a school climate hostile to sexual diversity has on the levels of educational achievement. Students who experience higher levels of victimization also reported lower academic achievement, lower expectations and lower levels of school belonging.

55. In a positive light, lesbian, gay, bisexual and transgender students reported lower rates of absenteeism because of fewer worries for their safety and greater acceptance from peers and a greater sense of school belonging when they reported having more supportive teachers or staff at school; when having a curriculum inclusive of lesbian, gay, bisexual and transgender-related information; and when school staff intervened with greater frequency when hearing homophobic comments.

D. Anomalies between particular laws

56. This feature is seen with respect to various laws, including codes of offences at the provincial level, such as article 81 of the Buenos Aires code of offences, which gives broad power to law enforcement personnel to act against persons/groups on the grounds of public decency, which may result in inconsistencies and injustices. Other examples include Mendoza law No. 3.365 of 1965:

> Scandalous prostitution and homosexualism
>
> Art. 54. The woman and the homosexual who, individually or in company, is exhibited, incites, offers or makes provocative signs or gestures to third parties in a public place, open or exposed to the public, for the purpose of prostitution, shall be punished with imprisonment from ten to thirty days and fines of up to two million pesos.
>
> The person who in any way offers sexual commerce to third parties will be punished with imprisonment for fifteen to thirty days and a fine of up to two million pesos, provided that the fact does not constitute the crime.[17]

57. In addition to these sanctions, sex workers, especially transgender sex workers, report frequent harassment and violence on the part of security forces as well as prolonged and unlawful detention.

58. There is also a negative application of specific laws, such as the anti-drugs law and the anti-trafficking law, which are used in policies by law enforcement personnel to undertake sweeping law enforcement campaigns, with a particular impact on transgender persons and without due process of law, and which, at times, is linked with corruption. Many codes of offences that prohibit sex work are disproportionately used to penalize transgender sex workers, for example in Buenos Aires, Chaco, Jujuy, La Pampa, La Rioja, Mendoza, Salta, Tierra del Fuego, Tucumán and Misiones. The narcotics law, No. 23.737 has a particularly

[16] Available from https://100porciento.files.wordpress.com/2016/12/resumen-ejecutivo-encuesta-nacional-de-ambiente-escolar.pdf.

[17] Submission to the Independent Expert by students at the University of Buenos Aires, March 2017; Amnesty International, *"What I'm Doing is Not a Crime": The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina, 2016*. Available from www.amnesty.org/en/documents/amr13/4042/2016/en/.

negative impact on trans women and is often linked to life on the streets, where police apprehend trans people under the anti-drugs law.

59. This situation is compounded by prejudicial attitudes, underlined by witnesses and victims:

> "Media call us narco *travestis*". Trans person, La Plata.
>
> "Because we are trans, they link us to drugs, prostitution … the worst of things." Trans woman, Rosario.

E. Intersectional impediments

60. This section of the report is an invitation to understand that laws, such as the gender identity law, are only a beginning, requiring the enjoyment of other rights and services such as access to health care, education, housing and employment, and needing effective follow-up policies and resources. In this regard, there is also a nexus between the situation of lesbian, gay, bisexual or transgender persons and that of other groups, such as women, migrants, migrant workers, refugees, children, youth, the ageing population, persons with disabilities, persons with HIV, detainees, indigenous peoples, minorities and people of African descent. Interlocutors raised with the Independent Expert the issue of executive decrees on migration modifying the old law No. 25.871, which now gives migrants from other countries only three days to present themselves to the authorities for regularization.[18] This is a much shorter period than under the previous law and may place migrants in a disadvantaged position, potentially putting them in danger of preventive detention. Failure to abide by the new law could lead to expulsion from the country. Conversely, the country's approach to asylum and refugee protection is constructive.

61. On another front, there is a key juncture of questions of sexual orientation and gender identity, on the one hand, and health issues on the other, especially HIV and access to condoms, bearing in mind the prevalence of HIV among a proportion of men who have sex with men. According to information received, only 3 per cent of the overall budget for HIV is allocated to prevention, and most of this goes towards the purchase and distribution of condoms with little emphasis on behaviour-change education and peer-to-peer support.

62. Much more needs to be done to study and respond to the situation of children and their relationship with sexual orientation and gender identity. This is exemplified by the precarious situation of lesbian, gay, bisexual and transgender children and the children of lesbian, gay, bisexual and transgender families. The following comments motivate a call for a robust strategy to deal with the situation facing children and related families from the point of view of violence and discrimination:

> "When you are travelling, they want to hit you. They shout at you, sometimes they hit the kids, saying they are the children of lesbians." Wife of a trans man, conurbano Bonaerense.
>
> "I look like a man. Since childhood, I faced aggression. My family obliged me to wear girls' clothes. I would tear them …. Father said I was a degenerate. In the area where I lived, they laughed or ran away …. I had to make my own way." Trans man, Buenos Aires.
>
> "Psychology has not depathologized our children. Therefore, many children are hospitalized in psychiatric clinics, highly medicated." Trans man, conurbano Bonaerense.
>
> "We have to fight institutional violence. A trans boy or girl is automatically believed to be a drug user … and that is not the case." Intersex man, Buenos Aires.

[18] In January 2017, Argentina implemented the necessity and urgency decree No. 70/2017 amending the migration law No. 25.871 (2004), its regulatory decree No. 616/2010 and the citizenship law No. 346 (1879). This indicates a trend towards stricter policies on migration due to national security concerns.

F. Lacunae in anti-discrimination law

63. It is acknowledged that the current federal anti-discrimination law is antiquated and that a new anti-discrimination law is needed, inter alia, to include sexual orientation and gender identity as one of the grounds of discrimination and to reverse the burden of proof in order to assist victims. In particular, this concerns the old law 24.592 of 1988 which has not yet integrated sexual orientation and gender identity into the grounds for prohibiting discrimination. *The Argentina Independent* offers the following analysis:

> While the original [law] was an important protection of equality as stipulated in Argentina's Constitution, it did little more than outline several identifying categories protected against discrimination and lay down the framework of a minimum sentence for committing discriminatory acts. The proposed new law, presented in March, goes a step further by amending the legislation in ways considered "necessary to promote the constitutional guarantee of equality from the perspective of diversity, and to prevent and punish discriminatory acts and conducts".
>
> Article 3 of the proposed law identifies dozens of physical, social, personal, sexual, professional, and political traits which need legal protection against discrimination. The inclusion of gender, gender identity and/or expression, and sexual orientation as protected categories is one of the reasons why the [lesbian, gay, bisexual and transgender] community has taken so strongly to the advocacy of this bill at the national level, including slogans like "anti-discrimination now", on banners during Buenos Aires' Pride March last November.
>
> More generally, the project also includes the presumption of discriminatory nature, which reverses the burden of proof more favourably for the victim, outlines reparations for moral damage, and includes, as part of sentencing, awareness and training courses on human rights and discrimination, and community work with associations defending the rights of discriminated groups.
>
> It also outlines preventative educational campaigns to be put in place at all levels of government.[19]

G. Limited checks and balances

64. Human rights are inevitably linked with power relations and the need for checks and balances against abuse of power. Even where there is a sense that a balance already exists, there is still much to be done in the country to establish stronger checks and balances between the pillars of the State (executive, legislative and judiciary) and the pillars of the community (national human rights institutions, NGOs and civil society). There is a call to strengthen the internal processes of institutions, such as oversight and disciplinary measures, and external processes of scrutiny, such as through the courts and ombudsmen, both at the provincial and federal levels, bearing in mind that the decision to appoint a federal ombudsman has been pending for several years and needs to be expedited. The role of the police, referred to above, is critically important. There is wisdom in the following reflections:

> "Feelings of citizenship among the police forces is important." Policymaker, Rosario.
>
> "Having women in high positions of the police force helps to have a broader outlook on human rights". Policymaker, Rosario.

65. There is thus a need for more public participation, including by women and trans people, in the police force and other law enforcement institutions.

66. There is also a current debate on whether public prosecutors, under the specialized unit on violence against women (Unidad Fiscal Especializada de Violencia contra las Mujeres) should be appointed on the basis of their expertise or by roster under the proposed new Criminal Procedure Code. The former would seem to be preferable.

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[19] Matthew Smith, "Will this be the year Argentina approves a new anti-discrimination law?", *Argentina Independent*, 4 May 2016.

67. Importantly, because, as a government official in La Plata put it, "impunity is a root cause [and] generates the spiral of violence", there is a challenge concerning public participation and access to justice: to overcome institutional and other forms of violence and discrimination, with emphasis on civil society monitoring of the work of law enforcement personnel, and effective action to broaden accountability and measures against impunity, in the full glare of the general public. It also requires the participation of other actors, such as political, community and religious leaders, the business sector and the media, to respond to victimization with due regard to prevention and cure, particularly because the reality is that, according to the government official "victims are interrogated more about their private life than the specific event of harm".

68. There is a new opportunity for action against violence and discrimination based on the Sustainable Development Goals, in particular to ensure that laws and policies on sexual orientation and gender identity are sustained as a long-term, durable national agenda, with at least a 15-year time frame under the Goals, irrespective of changes of administration and on the basis of non-partisan stakeholdership, with effective budgeting and parallel resources.

H. Penitentiary system

69. The penitentiary system is a microcosm for testing human rights in all countries, and this is often the Achilles heel of many countries: "Prison is a very homophobic place", stated an official of the National Institute against Discrimination in Buenos Aires.

70. Lesbian, gay, bisexual, transgender and intersex persons are especially affected in prison by the violence which might be inflicted on them if they are placed with the general prison population. Gay men and trans women are particularly at risk if they are placed in the men's prison. The Independent Expert and his team visited several prisons at both the federal and the provincial level, and many lessons were learned. On the positive side, and following the enactment of the gender identity law, trans women held in federal penitentiaries are being transferred from specific quarters in men's prisons to specifically dedicated pavilions in women's prisons, where they are progressively integrated with the rest of the prison population. In provincial prisons, a general attempt is being made to offer special facilities linked with sexual orientation and gender identity, in particular to house gay men and trans women separately from male inmates. In some of the better facilities, there is a good sense of community and family among the inmates, as per this comment:

> "Although we are detained, we are like a family." Detained man in special facility for gay men and trans women, Mendoza.

71. The activities to help rehabilitate vary from education to cultural pursuits such as painting and carving, as well as sports. Preparation for employment is integrated into the modus vivendi, driven by the rationale that:

> "Employment would be the great structuring factor because it provides dignity." Policymaker, La Plata.

72. Trans women can choose which toilets to use. Health care is available and access to legal and other help is possible, especially as the National Institute against Discrimination has branches in the provinces which can offer assistance on this front. The system is also open to inspection and has been visited from outside (including by the inter-American human rights mechanism).

73. However, there are various difficulties along the way. Firstly, a member of the Independent Expert's team noted, during the prison visits, complaints of violence and abuses. Some of the inmates stated that various prison personnel had threatened retaliation if they made complaints, while some of the administrators were uninterested and did not take action to rectify the situation. Secondly, conditions vary greatly from one prison to another. Some are in relatively good physical condition while others are in a sad state, with shortages of water, electricity and other basics such as healthy food, compounded by unsanitary conditions. Thirdly, some of the administrators are confused, even semantically, about "trans men" and "trans women". Some of those whom the Independent Expert met thought that trans men were men who have a self-perceived gender identity as women, rather than the

reverse. This also has an impact on where such people are placed, even where there are special facilities to offer shelter separately from the general prison compound. For instance, in one facility, trans women were placed in a special facility next to the men's compound, when it would have been better to place them in a women's compound or a special facility there. In another facility, trans women were placed in a special facility with gay men and others who had sought safety from the general prison compound for men.

74. While those whom the Independent Expert met said that they could register according to their self-perceived gender identity when they arrived at prison, they added that at the courts, there was a problem in that the judges treated them according to their legal gender rather than their self-perceived gender. Many inmates complained about police practice and related abuses, including bribery and extortion, at the time of their arrest. Several of the trans women had been on the streets and were arrested as part of the law enforcement drive that used the various laws mentioned above that have a negative impact, directly or indirectly, on the issue of sexual orientation and gender identity. In several facilities, it is difficult to access health care, particularly for trans women, for example in regard to hormone treatment and breast implants, and there is a long wait for surgical treatment. This is further complicated by the fact that several people have HIV/AIDS and have limited or inconsistent access to antiretroviral drugs and condoms.

75. Moreover, there is a resource and budgetary issue interlinking the federal budget and the provincial budget, especially the decline in the budget and/or inconsistent budgeting for the prison system. The limited resources at the provincial level would dictate that gaps should be filled by the federal budget, in particular where this pertains to access to medical care.

76. The role and resources of the federal Ministry of Health are important in this regard to ensure that there are no lacunae in access to medicines and health care related to sexual orientation and gender identity throughout the provinces.

VII. Recommendations

77. **The following elements advance an agenda for actions, interconnected and not necessarily in the order of priority, calling for effective measures.**

78. **In the field of laws and policies, the authorities, in cooperation with other actors, should:**

(a) **Ensure effective integration and implementation of sexual orientation and gender identity-responsive national laws, policies and related measures at the provincial and local levels, and sustain them as an overarching commitment against violence and discrimination;**

(b) **Reform laws and policies which are inconsistent with human rights standards and which might lead to violence and discrimination, such as various provisions of provincial codes of offences;**

(c) **Prevent laws on public decency and anti-drugs laws from being used to discriminate against lesbian, gay, bisexual and transgender persons;**

(d) **Adopt a new anti-discrimination law with reference to sexual orientation and gender identity as one of the grounds of discrimination, given that all the draft texts in the National Congress include sexual orientation and gender identity;**

(e) **Apply the quota law of Buenos Aires Province, aiming to ensure the employment of at least a minimum number of employees from the transgender group, and expand the reach of similar quota laws to other provinces;**

(f) **Initiate the process to adopt a law to offer reparation to victims of violence and discrimination based on sexual orientation and gender identity;**

(g) **Adopt the proposed amended Criminal Procedure Code so as to enable specially trained prosecutors to act on behalf of victims;**

(h) Integrate the policy on sexual diversity more effectively into all State institutions and issue clear instructions to police and other law enforcement personnel, such as through protocols, to respect human rights and offer protection in relation to sexual orientation and gender identity;

(i) Strengthen the implementation of the national human rights policy and related plans which would also integrate into the process targeted action against violence and discrimination based on sexual orientation and gender identity.

79. **In the field of programmes and practices, the authorities, in cooperation with other actors, should:**

(a) Reinforce interdisciplinary action against violence and discrimination, responding to international human rights standards and other commitments such as the Sustainable Development Goals;

(b) Adopt a variety of cross-sectoral measures to apply the gender identity law and to improve access to education, health care, employment, housing, credit, scholarships and other opportunities, including alternative employment and work for transgender women;

(c) Ensure equitable and accessible distribution of medicines and related necessities, including anti-HIV drugs and hormones, as part of comprehensive health care for all and in particular for transgender persons, while facilitating access by the Ministry of Health to prisons directly to provide services as well as to deliver medicines;

(d) Adopt anti-violence and non-discrimination measures in an intersectional setting, including coverage for migrants, and ensure that laws and policies bearing on migrants comply with international standards;

(e) Improve conditions in the penitentiary system, with due regard to the need to protect persons based on their sexual orientation and gender identity, with special quarters as necessary, effective and timely change of identity documents and records to reflect inmates' sexual orientation and gender identity, and access to legal counselling and medical and other assistance to ensure access to justice and basic necessities;

(f) Expand services such as shelters for victims, hotlines and related facilities and trained personnel to counter violence and discrimination;

(g) Strengthen efforts to counter hate speech in regard to incitement to violence and discrimination on the Internet through more cooperation with the cyber industry, in partnership with community and other actors.

80. **With regard to mechanisms, personnel and resources, the authorities, in cooperation with other actors, should:**

(a) Appoint and strengthen the federal ombudsman, ensuring independence of the mandate in compliance with the principles relating to the status of national institution for the promotion and protection of human rights (the Paris Principles);

(b) Establish, identify and/or strengthen special units/personnel to counter violence and discrimination also in regard to sexual orientation and gender identity, with special training and supports;

(c) Ensure more participation and representation of women and others based on sexual orientation and gender identity in the personnel of the judiciary and law enforcement authorities;

(d) Strengthen internal and external supervisory mechanisms for law enforcement personnel, with due regard to checks and balances (e.g., the Ministry of Justice and Human Rights to monitor police, rather than police to monitor police) and public participation in monitoring the work of law enforcement personnel ("social monitoring");

(e) Sustain resource commitment and ensure equitable allocation of resources, including at the provincial and local levels, on a durable and non-partisan basis.

81. **In the field of information, education and capacity development, the authorities, in cooperation with other actors, should:**

(a) **Generate statistics/data on groups affected by violence and discrimination, disaggregating the numbers by group and sexual orientation and gender identity, and build a federal-provincial data system;**

(b) **Integrate sexual diversity information more extensively into the educational curriculum for law enforcement personnel and other authorities, including judges, police and the military;**

(c) **Broaden understanding of sexual and gender diversity by implementing the comprehensive sex education law more systematically and improve the training and teaching for teachers and students, enhanced by "learning by doing", such as encouraging children to undertake pro bono work to help the community and nurture a caring mindset;**

(d) **Open up dialogue with opinion leaders, including religious leaders, to foster an approach that respects sexual and gender diversity, and integrate this dialogue into the educational and socialization process for empathy from a young age;**

(e) **Undertake a study of how children are affected by violence and discrimination based on sexual orientation and gender identity at the federal-provincial level, bearing in mind the various situations and status of children, including lesbian, gay, bisexual, transgender and intersex children, children of lesbian, gay, bisexual, transgender and intersex parents, children in a situation of adoption and children affected by assisted reproduction and other services based on sexual orientation and gender identity;**

(f) **Promote research on the intersectionality of violence and discrimination in relation to sexual orientation and gender identity, for instance in regard to patriarchy, gender and hetero-normality, indigenous peoples, minorities, detainees and migrant workers and refugees, learning also from the wisdom of local cultures, in addition to research on the economic dividend of integrating sexual orientation and gender identity into the world of work.**

82. **In the field of accountability and remedies, the authorities, in cooperation with other actors, should:**

(a) **Ensure effective follow-up of cases of violence and discrimination, including cases against law enforcement personnel;**

(b) **Prevent impunity, counter corruption and ensure accountability through a variety of measures, including improved screening, selection, education and monitoring of law enforcement personnel, with correlative incentives for effective law enforcement and sanctions for misconduct;**

(c) **Improve access to justice for all, including access to the courts and other channels for advocacy and accountability, with effective redress, bearing in mind that "justice delayed is justice denied".**

83. **In the field of participation and stakeholdership, the authorities, in cooperation with other actors, should:**

(a) **Enlarge the space for human rights defenders and ensure their protection, guaranteeing and broadening the democratic space;**

(b) **Enable a diversity of persons to join State agencies and other professions so as to nurture positive role models based on sexual orientation and gender identity;**

(c) **Broaden public participation to monitor the performance of law enforcement personnel, thus "democratizing" oversight of law enforcement through community participation and vigilance, and create opportunities for stakeholdership and sociocultural inclusion based on holistic measures, respectful of sexual orientation and gender identity.**

Epilogue

"It is not as though they battered us in an isolated place; it was in front of a lot of other people." Trans woman, conurbano Bonaerense.

"Indigenous peoples believe in dual nature: female/male come together to build society." Government human rights personnel, Mendoza.

"To put aside gender binarism .... The situation of inclusion is a challenge for the outside world." Prison psychologist, Province of Buenos Aires.

"Love is not defined along a single path ... it is defined through many possibilities of expression." University personnel, La Plata.

Annex

List of official meetings

National level	
Executive	Minister of Foreign Affairs and Worship (Chancellor)
	Ministry of Justice and Human Rights
	Secretariat for Human Rights and Cultural Pluralism
	Subsecretariat for the Promotion of Human Rights
	Subsecretariat for the Protection of Human Rights
	Directorate for Sexual Diversity Policies
	Interministerial meeting with representatives of:
	Ministry of Security
	Ministry of Labour, Employment and Social Security
	Ministry of Health
	Ministry of Education
	Ministry of Social Development
	Ministry of Foreign Affairs
	National Council for Women
	National Directorate of Social Statistics and Population
	National Commission for Refugees
Judiciary	Supreme Court of Justice
	National Public Prosecutor's Office
	Unit specialized in violence against women and against lesbian, gay, bisexual, transgender and intersex persons
Legislature	Parliamentarians from the Chamber of Deputies
	Parliamentarians from the Chamber of Senators
Law enforcement	Metropolitan and Federal Police
Independent public bodies	Office of the National Ombudsman
	National Institute against Discrimination, Xenophobia and Racism
	National Public Defender's Office
Persons deprived of their liberty	National Procurator for Prisons
	Federal Penitentiary Service
Province of Buenos Aires	
Executive	Human Rights Secretariat of the Province of Buenos Aires
	Interministerial meeting with representatives of:
	Provincial Ministry of Labour
	Provincial Ministry of Security
	Provincial Ministry of Health
Legislature	Legislators of the Province of Buenos Aires

National level	
Independent public bodies	Public Defender's Office of the Province of Buenos Aires
	Gender Violence Observatory
Persons deprived of their liberty	Undersecretary of Prison Policy of the Province of Buenos Aires
	Autonomous City of de Buenos Aires
Executive	Subsecretariat for Human Rights and Cultural Pluralism
Legislature	Legislators
Independent public bodies	Ombudsman's Office of the City of Buenos Aires
	Institute against Discrimination
	Lesbian, gay, bisexual and transgender defender
	General Public Defender of the City of Buenos Aires
High School	"Mocha Celis" bachillerato (trans high school)
	City of La Plata
University	University of La Plata, Faculty of Journalism and Social Communication
	Sexual Diversity Unit
	City of San Martin
Health facility	Dr. Fleming Hospital, Sexual Diversity Consulting Room *consultorios amigables*
	Santa Fe Province
Executive	Governor of Santa Fe Province
	Interministerial meeting with representatives of:
	Undersecretariat for Sexual Diversity of Santa Fe Province
	Provincial Ministry of Social Development
	Provincial Ministry of Education
	Provincial Ministry of Labour
	Provincial Ministry of Justice and Human Rights
	Provincial Ministry of Health
	Provincial Ministry of Security
Judiciary	Supreme Court of Justice of Santa Fe Province
Legislature	Provincial legislators of the Rights and Guarantees Commission
Independent public body	Ombudsman's Office of Santa Fe Province
	Centre for Assistance to Victims and Witnesses of Crime
	City of Rosario
Executive	Mayor (phone call)

National level

	Mendoza Province
Executive	Interministerial meeting with representatives of: Provincial Ministry of Health, Social Development and Sports Subsecretariat for Social Development Gender and Diversity Directorate Human Rights Directorate Municipal representatives in the field of diversity Representative of the City of Mendoza in the field of sexual diversity
Independent public body	Provincial representative of the National Institute against Discrimination, Xenophobia and Racism
University	National University of Cuyo
	Prisons
Federal	Ezeiza Federal Penitentiary (building IV)
Buenos Aires Province	Florencio Varela Penitentiary (unit 32)
Mendoza Province	Penitentiary I Boulogne Sur Mer (pavillon 14 A)

In addition, the Independent Expert met with numerous civil society organizations, lesbian, gay, bisexual and transgender activists, religious leaders, the business sector, students and teachers, as well as with persons deprived of their liberty.